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Written statement* submitted by the International Federation for Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Ireland Interim Report

1. The Irish Council for Civil Liberties (ICCL)[1] welcomes Ireland's Interim Report on UPR which provides an important milestone in measuring Ireland's progress within the First UPR Cycle.

2. Recognising the importance of Ireland's role as a member of the UN Human Rights Council, the ICCL launched its UN Human Rights Council *Legacy* project in 2013. At the core of the project, is a belief that the implementation of UN recommendations at home bolsters a country's capacity to promote and protect human rights abroad. The *Legacy* project is tracking the progress of seven key impact areas (ratification of ICPRD, ratification of OPCAT, effective NHRI, marriage equality, gender recognition, reproductive justice and recognition of Travellers as an ethnic minority) throughout the term of Ireland's membership of the Council.[2]

3. On 11 February 2014, the ICCL hosted a range of civil society organisations who came together to report on Ireland's progress in implementing its First UPR Outcome Report.[3] The audience was addressed by Ms June Ray of the Civil Society section of the Office of the High Commissioner for Human Rights and organised across 11 broad thematic areas. The discussions captured at the event have informed the issues highlighted in this statement.[4] In line with the recommendation to Ireland from Austria, we look forward to the Government's engagement with civil society including public consultations, in the follow up to UPR.[5]

4. We reiterate our call that recommendations that would enhance effective domestic monitoring of human rights compliance be implemented rapidly. Since the UN Human Rights Council adopted Ireland's UPR Outcome Report in March 2012, Ireland has not ratified the International Convention on the Rights of People with Disabilities (ICRPD)[6] nor the Optional Protocol to the UN Convention against Torture and other Inhuman or Degrading Treatment or Punishment (OPCAT).[7] Ireland signed both of these international treaties almost seven years ago (ICPRD: March 2007 and OPCAT: October 2007). We reiterate our call for Ireland to progress these ratifications as a matter of priority.

5. We welcome publication of the Assisted Decision-Making (Capacity) Bill 2013[8] which, following enactment should provide an improved legal framework for supporting people to exercise their legal capacity and thus enable Ireland to ratify the ICRPD. We call on Ireland to set out a detailed timetable for ratification of the ICRPD, to provide details of when it intends to commence in full the legislative components of the National Disability Strategy 2004[9] and provide details on progress in reviewing Ireland's existing mental health legislation.[10]

6. Regarding OPCAT, the Minister for Justice, Equality and Defence stated in 2013 that the Government had approved the drafting of a General Scheme of an Inspection of Places of Detention Bill, which would include provisions to enable ratification of OPCAT including by enabling the designation of a National Preventative Mechanism.[11] Despite indications that the Bill would be introduced last year, it now appears unlikely that legislation will be produced by the end of 2014.[12]

7. UPR recommendations to "reinforce the independence and capacity of the Irish Human Rights Commission"[13] by "endowing it with adequate and sufficient resources"[14] may be a step closer to realisation as the Irish Human Rights and Equality Commission Bill is expected to be presented to the Oireachtas (Irish Parliament) shortly.[15] We welcome the appointment of fourteen independently selected Commissioners to oversee the establishment of the new body; however, concerns remain regarding the extent to which the new Commission will comply fully with the UN Paris Principles both as regards the independence of its financing and given its reporting relationship to the Department of Justice and Equality.

8. We welcome the passing of the constitutional referendum on children's rights and the establishment of the new Child and Family Support Agency.[16] We look forward to these structural reforms delivering a change in services and outcomes for children and young people in Ireland.

9. The current Programme for Government[17] shadows the timeframe of Ireland's First UPR Cycle and it sets out commitments that correspond directly to certain UPR recommendations under consideration. However, we

have yet to see movement with respect to reforms on domestic violence legislation[18] (preventing Ireland from ratifying the Council of Europe Convention on violence against women and domestic violence)[19] or legislation on the right to engage in collective bargaining.[20] The long-promised Immigration, Residence and Protection Bill has yet to be published.[21]

10. Progress has been achieved regarding access to education and the Minister for Education has established a Forum on Patronage and Pluralism in primary schools.[22] In Ireland's UPR Outcome Report, it was recommended that reform should take place to Ireland's equality laws which allow religious orders providing public services to discriminate against employees on the basis of moral ethos.[23] The Equality Authority has conducted a consultation on the need to reform these legislative provisions (in cooperation with the Irish Human Rights Commission) and is preparing proposals for Ministerial attention.[24]

11. Clear guidance to ensure that children are never denied enrolment or access to schools on the basis of religious belief or affiliation,[25] including in relation to the wearing of religious garb and/or symbols does not exist at national level and should be developed.

12. The ICCL is pleased to note that the Constitutional Convention[26] debated and agreed on certain matters relevant to UPR recommendations, and we welcome the Government's announcement of a referendum on same-sex marriage in 2015.[27] We look forward to further constitutional reform on amending the clause on women in the home and encouraging greater participation of women in public life,[28] and removing references to criminal blasphemy from the Constitution.[29]

13. A lack of effective complaints and monitoring mechanisms, issues of overcrowding, the continued lack of in-cell sanitation in many prisons leading to practices such as 'slopping out' and the use of prisons for immigration detention purposes were among the serious human rights concerns raised regarding Ireland's penal system.[30] Unfortunately, certain prisons continue to operate over their capacity, the practice of "slopping out" continues and there is no independent, fully-functioning and comprehensive prisoner complaints mechanism.

14. Despite a number of accepted recommendations,[31] no strategic action plan to combat racism and other forms of hate crime following the expiry in 2008 of the National Action Plan against Racism (NPAR) has been adopted.[32] Concrete measures within the criminal law should be introduced[33] to effectively combat and penalise non-expression based offences motivated by forms of hatred in relation to race, ethnicity, immigration status, xenophobia, religious intolerance, hatred based on gender, sexual orientation and/or disability.

15. Ireland should reform the Prohibition of Incitement to Hatred Act 1989 to afford greater protection to vulnerable groups in relation to expression based offences motivated by hatred. In addition, measures to combat all forms of racial profiling[34] by police, immigration or other statutory agencies should be introduced.

16. Legislation and training to ensure a more effective system of reporting and recording of incidents motivated by hatred should be introduced in line with recommendations,[35] including the establishment of dedicated data collection and disaggregation mechanisms to capture and classify the range of hate crimes and incidents.

17. The Minister informed the UN Human Rights Council during Ireland's UPR that recognition of Travellers as an ethnic group would be given "serious consideration" and hearings have been held by the Joint Oireachtas Committee on Justice, Equality and Defence.[36] It is expected that the Committee will report to the Minister in early 2014. The ICCL recommends that Traveller ethnicity be recognised in law without further delay. Adequately resourced effective policies concerning Travellers and Roma[37] should also be introduced to systematically reduce inequalities in health and mortality rates, inequalities in access to education, promote equitable access to justice, reduce disproportionately high unemployment and provide culturally appropriate accommodation.[38]

18. We welcome publication of the General Scheme of the Gender Recognition Bill 2013.[39] Concern remains that provisions of the proposed legislation do not meet international human rights standards, including that a Gender Recognition Certificate may not be issued to persons who are below 18 years of age on the date of

application.[40] The Government should also ensure such legislation guarantees, the rights of married Trans persons to legally acquire their preferred gender without recourse to dissolution of marriage.

19. Ireland should ensure that the rights of older people are protected[41] including the right to consultation and decision making on all aspects of one's life including healthcare and social needs. Legislation guaranteeing the right to issue advance planning directives and issues affecting end of life care should be introduced. Stronger measures to protect against elder abuse should be introduced.

20. Although Ireland rejected outright six recommendations[42] on bringing abortion law into line with international standards and the judgment in the European Court of Human Rights case, *A, B and C v. Ireland*, the Protection of Life During Pregnancy Act 2013[43] was passed in July 2013. This allows limited access to abortion in circumstances where the life (as opposed to health) of the mother is at risk but does not bring Irish law on access to abortion into line with ICCPR standards as recommended during Ireland's UPR.[44]

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1 The ICCL led a civil society coalition of seventeen organisations during Ireland's first UPR examination, under the campaign name, Your Rights Right Now, more information is available on www.rightsnow.ie.
2 For more information on the project please visit our website at www.rightsnow.ie.
3 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, (21 December 2011), UN DOC A/HRC/19/9.
4 For more Information on this event, please see www.rightsnow.ie.
5 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para107.50.
6 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 105.1.
7 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 105.2 and 105.3.
8 See http://www.oireachtas.ie/documents/bills28/bills/2013/8313/b8313d.pdf.
9 See http://www.dohc.ie/publications/nds_strategy.html.
10 Mental Health Act 2001, available at: http://www.irishstatutebook.ie/pdf/2001/en.act.2001.0025.pdf.
11 Written Answers, (6 February 2013), available at http://www.kildarestreet.com/wrans/?id=2013-02-06a.110&s=optional+protocol+to+the+convention+against+torture#g111.q (accessed 30/07/2013).
12 In the Government Legislative Programme for Spring/Summer 2014, the Inspection of Places of Detention Bill appears in Section of the Programme which refers to the Heads of Bills which have yet to be approved by Government. See http://www.taoiseach.gov.ie/eng/Taoiseach_and_Government/Government_Legislation_Programme/.
13 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 105.7.
14 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 105.7, 105.12, 105.13.
15 See Heads of the Irish Human Rights and Equality Commission Bill 2012 available at http://www.justice.ie/en/JELR/20120605HeadsOfIHRECBill.pdf/Files/20120605HeadsOfIHRECBill.pdf.
16 See http://www.tusla.ie/.
17 Towards Recovery - Programme for a National Government 2011 – 2016.
18 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.36 to 106.38.
19 Specifically in relation to the lack of emergency barring orders under Irish law, provision for which is a requirement under the Convention.
20 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.46.
21 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.31.
22 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 106.27, 106.48. See http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf.
23 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.45.
24 Notice: Equality Authority calls for submissions on a proposed amendment to s37 of the Employment Equality Acts 1998 – 2011, See http://www.integration.ie/website/omi/omiwebv6.nsf/page/AXBN-9DVN281741828-en,
25 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 107.47, 107.48
26 See https://www.constitution.ie/Convention.aspx.
27 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.44.
28 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.14. See https://www.constitution.ie/AttachmentDownload.ashx?mid=268d9308-c9b7-e211-a5a0-005056a32ee4.

29 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.17. See https://www.constitution.ie/AttachmentDownload.ashx?mid=b96d3466-4987-e311-877e-005056a32ee4.
30 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 106.36 – 106.48.
31 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 107.25, 107.26
32 www.integration.ie, Office of the Promotion of Migrant Integration, 2014, National Action Plan Against Racism (NPAR) 2005-2008, available at: http://www.integration.ie/website/omi/omiwebv6.nsf/page/Racism-npar-en, Accessed on 14 February 2014
33 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 106.23, 107.19, 107.28
34 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 107.13 & 107.24
35 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 107.29, 107.32, 108.2
36 This review included oral representations by Traveller organisations. Further information is available at http://www.oireachtas.ie/parliament/mediazone/pressreleases/name-16316-en.html.
37 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 107.31, 107.32
38 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, para 106.31.
39 http://www.welfare.ie/en/downloads/Gender-Recognition-Bill-2013.pdf.
40 Transgender Equality Network Ireland (TENI) "The Government's Gender Recognition Bill 2013", available at: http://www.teni.ie/attachments/dd37571c-b3de-452d-8e87-1e91bff47896.PDF.
41 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 103.5, 107.12
42 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras 108.4 to 109.9.
43 http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0035.pdf.
44 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Ireland, op cit, paras108.4.